

DRAFT ANIMAL WELFARE POLICY

REPORT OF: Tom Clark – Head of Regulatory Services
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Wards Affected: ALL
Key Decision: No
Report to: Council
29th January 2020

Purpose of Report

1. In October 2019 the Draft Animal Welfare Policy under the The Animal Welfare Regulations (Licensing of Activities involving Animals) (England) Regulations 2018 was reviewed and endorsed for consultation by the Scrutiny Committee for Community, Customer Services and Service Delivery. This report includes the outcome of that consultation.

Recommendations

2. **The Council is recommended to adopt the Animal Welfare Policy under The Animal Welfare Regulations (Licensing of Activities involving Animals) (England) Regulations 2018 attached in Appendix 1 to commence on the 1st February 2020.**
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Background

3. On the 1st October 2018 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 replaced disparate animal licensing legislation for Local authorities. It provides a single licensing regime for animal licensing activities. Those undertaking the following activities will need to be licensed under the new regime:
 - Selling animals as pets
 - Providing or arranging for the provision of boarding for cats or dogs (including day care)
 - Hiring out horses
 - Breeding dogs
 - Keeping or training animals for exhibition
4. The Regulations replaced the previous licensing and registration regimes:
 - Pet Animals Act 1951
 - Animal Boarding Establishments Act 1963
 - Riding Establishments Acts 1964 & 1970
 - Breeding of Dogs Act 1973 & Breeding and Sale of Dogs (Welfare) Act 1999
 - Performing Animals (Regulation) Act 1925

5. There is no legislative requirement for a policy but it is considered good governance to have such guidance. It has been produced to assist the Council, current and potential licence holders and the public as to how the animal licensing regime is administered within the district. It is proposed that we will review and republish, following consultation, every five years or as appropriate.
6. Additionally, the policy sets out the general approach the Council will take when considering applications under this legislation.
7. The legislation is comprehensive and defines the activities in bullet point 4 as “licensable activities”. Licence conditions, previously an area where local authorities had to adopt their own, are now a part of the statute. There are a number of standard conditions applicable to every licence and specific conditions depending upon the licensable activity authorised. The local authority does not have discretion to impose its own conditions.
8. Before a licence is issued the premises must be inspected, a report compiled and a ‘star’ rating awarded to the premises. The star rating varies from 1 to 5 and determines the length of the licence (1 to 3 years). There is an appeal procedure for the refusal outright of a licence to the First Tier Tribunal which is part of the High Court. Outside of this, operators can internally appeal the ‘star rating’. This will be determined by the Business Unit Leader of Environmental Health and Building Control or a similar appointee from another council if this was ever deemed appropriate.
9. Operators can request a re-inspection; this is different from an appeal against the star rating and is generally asked for if suggested remedial work has been completed since an inspection.
10. Every premises must be inspected at least once during the term of its licence
11. The legislation is very prescriptive around standards and documentation expected of operators at premises. It is far more demanding than previous statutes and all licensable activities are the subject of lengthy guidance from DEFRA. Guidance has also been issued to local authorities to assist with applications.
12. An area that has attracted a lot of discussion is Home Boarding for Dogs Franchises. These involve a franchise sourcing a number of addresses to ‘host’ dog boarding. Some franchises take the view that the ‘host’ families do not need to be licensed as they consider that remuneration for their services are below a threshold of £1000 which the government considers not reportable to HMRC i.e. not a business.
13. This council, acting on legal advice, has determined that all households accepting a fee must be licensed in their own right if accepting dogs for boarding. Paragraph 6 of the Policy deals with this. The test in this case is referred to in the legislation as the ‘business test’. (Schedule 1, Part 1)
14. It should be noted this policy only deals with the licensable activities described in bullet point 4 above as prescribed in the The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. It does not deal with dog walkers who fall outside of this licensing regime.
15. At the time of writing this report the council has issued licences to sixty two operators with one pending approval.

16. The following organisations were consulted during the development of this policy:
- Licence Holders for Animal Welfare Licences within the MSDC area
 - RSPCA
 - British Veterinary Association
 - Royal College of Veterinary Surgeons
 - Defra
 - Elected Members
 - Parish and Town Councils
 - Sussex Police
 - Farriers Registration Council

Outcome of the Consultation

17. The consultation generated 5 responses:
- Farriers Registration Council
 - RSPCA
 - Royal College of Veterinary Surgeons
 - Turners Hill Parish
 - Haywards Heath Town Council
 - Councillor Hillier
18. Minor amendments have been made to the Policy to reflect the comments of the consultees.
19. These include clarification about qualified veterinary inspectors taking samples from animals and identifying a contact point for complaints about licensed and unlicensed premises and businesses.

Policy Context

20. There is no legislative requirement to produce a policy for The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. It is considered good governance to have such guidance.

Financial Implications

21. None

Risk Management Implications

22. In the absence of a policy the Council may find it difficult to defend determinations to operators and judicial bodies.

Background Papers

Appendix 1 –Statement of Licensing Policy - Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018